



5-31-11

box 11  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Re application of: Pellet and Sanchez-Martinez**

**Patent No. 6,126,944**

**Issued: October 3, 2000**

**Application No. 08/480,850**

**Filed: June 7, 1995**

**Confirmation No. 9684**

**For: BACULOVIRUS EXPRESSION VECTORS  
AND RECOMBINANT ANTIGENS FOR  
DETECTING TYPE-SPECIFIC  
ANTIBODIES TO HERPES SIMPLEX  
VIRUS**

**Examiner: Louise N. Leary**

**Art Unit: 1623**

**Attorney Reference No. 6395-87124-02**

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450 ALEXANDRIA, VA 22313-1450

**CERTIFICATE OF MAILING**

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service via Express Mail No. EV 514210201 US in an envelope addressed to: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)

Date Mailed May 27, 2011

06/02/2011 DALLEN 00000011 6126944  
01 FC:1599

3720.00:0P  
2011 JUN -1 PM 3:50  
USPTO  
RECEIPTS ACCOUNTING  
DIVISION

**PETITION TO REVIVE UNAVOIDABLY  
ABANDONED PATENT UNDER 37 CFR 1.137(a)**

The above-identified patent became abandoned on November 3, 2008, for failure to timely pay the maintenance fee. Applicants hereby petition for the revival of this patent. Enclosed with this petition are:

- (1) The Petition Fee of \$540.00 is submitted herewith for payment of the Petition fee required by 37 CFR. § 1.17(I).
- (2) The maintenance fee of \$2,480.00 as set forth in 37 C.F.R. § 1.20 (e)-(g) is submitted herewith.
- (3) The surcharge of \$700.00 as set forth in 37 C.F.R. § 1.20(i)(1) is submitted herewith.
- (4) A Declaration of Valentin Fikovsky documenting that the entire delay from the abandonment of this patent to the filing of this petition was unavoidable and enumerating the steps taken to ensure timely payment, the date and manner in which the Assignee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Valentin Fikovsky was the case manager for the Assignee and thus is in a position to know that the delay was unavoidable.
- (5) Documents in support of the Declaration of Valentin Fikovsky (Exhibits A-F).

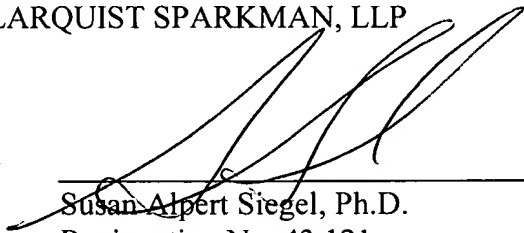
- (6) Power of Attorney by Assignee and Statement Under 37 CRG 3.73(b)
- (7) Notice of Assignment Recordation, dated September 26, 1994, Reel 7166, Frame 0602 and executed Assignment.
- (8) A check in the amount of \$3,720.00 to cover the above listed fees is attached.
- (9) Please charge any additional fees that may be required in connection with filing this amendment including any extension of time or excess page charges, or credit any overpayment, to Deposit Account No. 02-4550.
- (10) Please return the enclosed postcard to confirm that the items listed above have been received.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600  
121 S.W. Salmon Street  
Portland, Oregon 97204  
Telephone: (503) 595-5300  
Facsimile: (503) 595-5301

By



Susan Alpert Siegel, Ph.D.  
Registration No. 43,121

cc: Docketing; accounting



SAS:arj

05/27/11 1765701.doc B-021-91

Attorney Reference Number 6395-87124-02

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of:** Pellet and Sanchez-Martinez**Patent No.** 6,126,944**Issued:** October 3, 2000**Application No.** 08/480,850**Filed:** June 7, 1995**Confirmation No.** 9684**For:** BACULOVIRUS EXPRESSION VECTORS  
AND RECOMBINANT ANTIGENS FOR  
DETECTING TYPE-SPECIFIC  
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VIRUS**Examiner:** Louise N. Leary**Art Unit:** 1623**Attorney Reference No.** 6395-87124-02CERTIFICATE OF MAILING

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Attorney or Agent  
for Applicant(s) \_\_\_\_\_Date Mailed May 27, 2011

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450 ALEXANDRIA, VA 22313-1450

DECLARATION OF VALENTIN FIKOVSKY

1. I, Valentin Fikovsky, am the case manager for the above referenced patent on behalf of the Assignee, which is The United States of America as Represented by the Secretary of the Department of Health and Human Services (hereinafter "the Government"). I am employed by the Government at the Centers for Disease Control and Prevention (hereinafter "the CDC") in Atlanta, Georgia. The assignment for this patent is recorded at Reel 7166 Frame 0602. A copy of the assignment is attached to our Statement Under 37 CFR 3.73(b).

2. I currently maintain the file for U.S. Patent No. 6,126,944 on behalf of the CDC. I have been employed as a Patent Advisor by the Technology Transfer Office for the CDC since April 14, 2008. The previous case manager for this patent was Russ Metler who retired from CDC in June of 2007. Suzanne Shope acted as the case manager from the date of Russ Metler's retirement until I assumed responsibility for this file on or about April 14, 2008.

3. This patent issued on October 3, 2000. A Power of Attorney was submitted to the United States Patent and Trademark Office (USPTO) for this matter on June 5, 2001, authorizing CDC's contract law firm Needle & Rosenberg, P.C. to act on behalf of the Assignee.<sup>1</sup> Needle & Rosenberg arranged the payment of the first maintenance fee on behalf of the CDC, and this fee was paid on March 29, 2004. Attached as Exhibit A is a copy of a printout of the Patent Bibliographic Data for this patent from the US Patent and Trademark Office; this printout documents the payment of the first maintenance fee.

4. As prescribed by federal procurement and contractual policies, the CDC is limited to using specific law firms that are retained under a Government patent services contract. On September 1, 2006, the CDC awarded a new seven-year patent services contract to two law firms. These two firms were Klarquist Sparkman LLP (hereinafter "Klarquist Sparkman") and Gifford, Krass, Sprinkle, Anderson & Citowski, P.C. (hereinafter "Gifford Krass"). As Needle & Rosenberg was no longer a designated contract law firm for the CDC, Needle & Rosenberg began transferring the active files to the new contract attorneys, Klarquist Sparkman and Gifford Krass at the request of the CDC. According to CDC procedures, files for patents and applications that were in active prosecution or required other action (such as payment of maintenance fees) were transferred from Needle & Rosenberg directly to one of the two law firms awarded the new patent services contract. Files for expired patents and abandoned patent applications were shipped from Needle & Rosenberg directly to the CDC for storage at the CDC Technology Transfer Office in Atlanta, Ga. However, the transfers occurred over an extended period of time as funds already obligated to Needle & Rosenberg under the prior contract were depleted. Thus, Needle & Rosenberg remained responsible for U.S. Patent No. 6,293,944 until the obligated funds for that matter were depleted.

5. Pursuant to this policy, Needle & Rosenberg shipped to Klarquist Sparkman approximately 142 files related to seventeen different technologies that had been and were being prosecuted in the United States and many corresponding foreign countries. Needle & Rosenberg shipped to Gifford Krass approximately 60 files related to ten different technologies. These transferred matters included many files for which the patent maintenance fees were to be tracked

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<sup>1</sup> Ballard and Spar acquired Needle & Rosenberg in June of 2008, but retained this place of business.

and paid in the U.S. and abroad. The CDC had detailed procedures in place for receiving notification from its contract firms about maintenance fees that were to be paid, and providing instructions and funding under the government contracts to pay the maintenance fees. The contract law firms routinely send CDC a spread sheet containing a list of the fees to be paid in a particular month, and the CDC sends back instructions to the law firms for payment or non-payment of the fees. These procedures have been very effective in tracking and paying the maintenance fees. For example, Klarquist Sparkman paid 557 U.S. and foreign maintenance fees for issued and pending applications on behalf of the CDC during the first three contract years (September 1, 2006-August 31, 2009).<sup>2</sup> Of these 557 fees that were timely paid, 36 were for maintaining issued U.S. Patents. Under the successful procedures, Gifford Krass paid 192 maintenance fees for issued and pending applications during the first three contract years (September 1, 2006-August 31, 2009). Of these 192 maintenance fees, 11 were for maintaining issued U.S. patents. Thus 749 maintenance fees were successfully paid by the CDC contract law firms during the first three contract years. U.S. Patent No. 6,126,944 and related U.S. Patent No. 6,013,433 were exceptions to the otherwise successful implementation of procedures to track and pay patent maintenance fees.

6. Under the policy described above, only inactive patent files that included information on expired patents and abandoned patent applications were to be shipped directly to the CDC. All active patent prosecution files (including issued patents for which maintenance fees were to be paid) were to be shipped from Needle & Rosenberg directly to one of the new patent services contract firms. For reasons that are not clear, the patent file for active U.S. Patent No. 6,126,944 was shipped directly to CDC, contrary to CDC policy under which only inactive matters were shipped directly to CDC.

7. On May 14, 2008, Ms. Shope emailed me to ask me to help track down a related patent file, US Patent No. 6,013,433. I had only recently begun working at CDC and was still familiarizing myself with its procedures. Our file tracking system indicated that the patent file for U.S. Patent No. 6,013,433 (CDC reference number E-021-91/1) was still at Needle &

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<sup>2</sup> Of the 557 maintenance fees paid by Klarquist Sparkman, not all of them were for the 142 files transferred under the September 2006 contract, because Klarquist Sparkman already had a substantial portfolio of CDC cases before

Rosenberg. Ms. Shope noted that there was no indication in our records that its maintenance fee was paid, nor was there any indication that the patent file was properly transferred to Gifford Krass or Klarquist Sparkman. A copy of Ms. Shope's email is attached as Exhibit B.

On May 15, 2008, I responded to Ms. Shope noting that we did not receive notices that that the maintenance fees were due for four patents, including U.S. Patent No. 6,126,944. The maintenance fee for that patent was due no later than October 3, 2008. As the CDC did not have a contracting service provider exclusively to monitor, track and pay annuity payments, I suggested that we investigate whether it was possible to pay CDC maintenance fees by credit card. A copy of these emails is attached as Exhibit C. At that time, this patent was licensed, and thus the maintenance fee should have been paid. I began to investigate the procedures for paying maintenance fees directly, such as by credit card, and those discussions continued for many months because of the complexity of federal contracting regulations and procedures.

8. On November 20, 2008, Needle & Rosenberg sent a letter to the CDC forwarding a Notice of Abandonment and their electronic summary noting that the file had been shipped to the CDC on September 28, 2008. A copy of this letter and Notice is attached as Exhibit D. This letter was received by Francisco Candal on December 4, 2008, who forwarded it to me, Dr. Andrew Watkins, Director of Technology Transfer of the CDC, and the licensing staff of the CDC. A copy of this email is attached as Exhibit E. I was continuing my investigation into the possibility of retaining an outside contractor to take over the payment of maintenance fees and annuities.

9. The CDC receives in excess of approximately 1500 official notices from law firms each year which are successfully docketed and tracked in our electronic database. For unknown reasons, this Notice of Patent Expiration was not entered into our electronic database (Inteum). Therefore, the deadline to revive this patent was not entered into our docketing system. Normally this would not present a problem, because maintenance fee payment and revival deadlines are tracked by our outside contract law firms on whom we rely to remind us of the deadlines and arrange for payment of the fees. However, since this file was not sent from Needle

& Rosenberg directly to one of our new patent firms (Klarquist Sparkman or Gifford Kass), but instead was shipped directly to CDC in boxes that contained both active and abandoned matters, they were diverted from our normal successful maintenance fee payment system.

10. On April 13, 2011, a search in PAIR was performed, to determine the patent term of U.S. Patent No. 6,126,944 in order to determine how long the CDC would continue to collect royalties on the licenses for this patent. At that time, it was confirmed that the second maintenance fee was never paid. On April 13, 2011 the CDC database (Inteum) still indicated that U.S. Patent No. 6,126,944 was issued and in good standing. There was no notation in our internal database that this patent had been abandoned. On April 13, 2011 the boxes that were shipped from Needle & Rosenberg directly to CDC for storage were reviewed and the patent file for U.S. Patent No. 6,126,944 was located in those boxes. On April 18, 2011, I contacted one of our contract law firms, Klarquist Sparkman, and requested that they take any action required to revive this patent and pay the maintenance fee. I sent the patent file from Needle & Rosenberg to Klarquist Sparkman LLP on April 22, 2011. A copy of the shipment receipt is attached as Exhibit F. Since that time I and others at the CDC have worked diligently with Klarquist Sparkman to reconstruct the events that resulted in nonpayment of the second maintenance fee, and to prepare this Declaration documenting those events.

11. Thus, there were systems in place at the CDC for the transfer of active patent files directly to contract patent firms and for the tracking and payment of maintenance fees through those contract patent firms. Those systems have functioned well for the tracking and payment of hundreds of renewal fees for CDC's U.S. and international patent portfolios. There also is an internal computer system for tracking the status of issued patents and patent applications. Although these procedures and systems routinely operate successfully to assure the timely payment of CDC maintenance fees, this patent was diverted from our normal file transfer procedures which resulted in it not being docketed, tracked and paid by our contract law firm.

12. All statements made herein and of my own knowledge are true and all statements made on information are believed to be true; and further, these statements were made with the knowledge that willful false statements and like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements made may jeopardize the validity of the application or any patent issuing thereon.

Date May 27, 2011

V. Fikovsky  
Valentin Fikovsky



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United States  
Patent and  
Trademark Office

Patent Bibliographic Data		05/04/2011 03:03 PM	
Patent Number:	6126944	Application Number:	08480850
Issue Date:	10/03/2000	Filing Date:	06/07/1995
Title:	NOVEL BACULOVIRUS EXPRESSION VECTORS AND RECOMBINANT ANTIGENS FOR DETE		
Status:	Expired for non-payment on: 10/03/2008		Entity: Large
Window Opens:	10/03/2007	Surcharge Date:	04/04/2008
Fee Amt Due:	\$0.00	Surchg Amt Due:	\$0.00
Fee Code:		Total Amt Due:	\$0.00
Surcharge Fee Code:			
Most recent events (up to 7):	10/03/2008 Patent Expired for Failure to Pay Maintenance Fees. 04/14/2008 Maintenance Fee Reminder Mailed. 03/29/2004 Payment of Maintenance Fee, 4th Year, Large Entity. 08/21/2001 Payor Number Assigned. --- End of Maintenance History ---		
Address for fee purposes:	CENTERS FOR DISEASE CONTROL c/o Ballard Spahr LLP 999 PEACHTREE STREET SUITE 1000 ATLANTA, GA 30309		
NOTE: All USPTO fees are subject to change. If you are making a payment by mail or fax, please visit this <a href="#">link</a> or contact the Maintenance Fee Branch (571-272-6500) to confirm the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.			
<a href="#">Run Another Query</a>			

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EXHIBIT A

**From:** Shope, Suzanne (CDC/OSELS/LSPPPO) <awd8@cdc.gov>  
**Sent:** Wednesday, May 14, 2008 4:03 PM  
**To:** Fikovsky, Valentin (CDC/OSELS/LSPPPO)  
**Subject:** RE: Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

More info: I found a note in Inteum stating "CDC ltr re: Instruction to N&R to paying 3rd quarter maintenance, dated 04/24/2007", but I find no record of such a letter. We need to know if Needle paid the maintenance fee or whether we need to revive.  
Suzanne

\*\*\*\*\*  
Suzanne Seavello Shope  
770-488-8613

---

**From:** Shope, Suzanne (CDC/OD/OCSO)  
**Sent:** Wednesday, May 14, 2008 6:58 PM  
**To:** Fikovsky, Valentin (CDC/OD/OCSO)  
**Subject:** FW: Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

Hi Val, can you help me track down this file. Inteum does not show that Needle transferred it anywhere nor that this maintenance fee was paid. It has four non-exclusive licenses. We need to find the file, transfer it to either Klarquist or Gifford, and ask that it be revived. Hopefully "patent portfolio transition" is enough reason for unintentional abandonment and revival. Suzanne

\*\*\*\*\*  
Suzanne Seavello Shope  
770-488-8613

---

**From:** Elizabeth G. Williams [mailto:EWilliams@needlerosenberg.com]  
**Sent:** Tuesday, July 10, 2007 3:09 PM  
**To:** Shope, Suzanne (CDC/OD/OCSO); Robertson, Cynthia (CDC/OD/OCSO)  
**Cc:** Gwen Spratt; Brendan S. Collins; Alicia C. Sheffield  
**Subject:** Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

RE: Serial No. 08/472,507  
U.S. Letters Patent No. 6,013,433  
Title: BACULOVIRUS EXPRESSION VECTORS AND RECOMBINANT ANTIGENS FOR  
DETECTING  
TYPE-SPECIFIC ANTIBODIES TO HERPES SIMPLEX VIRUS  
N&R Reference No. 14114.0368U4  
Your Reference No. E-021-91/1

Dear Ms. Shope:

With regard to the above-referenced matter, please note that the 8<sup>th</sup> year maintenance fee is now due. Our accounting department has advised me that this matter does not have adequate funding for us to pay the maintenance fee; therefore, we will need you to **provide us with a request for Task Order revision**. We estimate the cost of paying the maintenance fee will be \$2,445.00. The final deadline to submit payment for

this maintenance fee will expire on January 11, 2008. We will not be able to take action in the absence of adequate funding.

We look forward to hearing from you regarding this matter.

With regards,

Liz Williams  
Maintenance Fees and Annuities Dept.  
Needle & Rosenberg, P.C.  
Suite 1000  
999 Peachtree St. NE  
Atlanta, GA 30309-3915  
678-420-9462 Direct  
678-420-9300 Receptionist  
678-420-9301 Facsimile  
[ewilliams@needlerosenberg.com](mailto:ewilliams@needlerosenberg.com)  
[www.needlerosenberg.com](http://www.needlerosenberg.com)

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-----Original Message-----

From: Fikovsky, Valentin (CDC/OSELS/LSPPPPO) [mailto:hln5@cdc.gov]  
Sent: Wednesday, April 27, 2011 12:30 PM  
To: William Noonan, M.D.; Susan Alpert Siegel, Ph.D.  
Subject: FW: Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

-----Original Message-----

From: Watkins, Andrew (CDC/OD/OCSO)  
Sent: Thursday, May 15, 2008 1:06 PM  
To: Shope, Suzanne (CDC/OD/OCSO); Fikovsky, Valentin (CDC/OD/OCSO); Candal, Francisco (Paco) (CDC/OD/OCSO)  
Subject: Re: Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

Are these all licensed? If not, should we evaluate the wisdom of paying an 8 year maintenance fee before the CCID division director does that for us? If we should abandon due to age and lack of interest or lack of need for future position, I would prefer that recommendation come first from TTO, with a request to the division director to help evaluate the current and future scientific status of the invention.

Andrew

----- Original Message -----

From: Shope, Suzanne (CDC/OD/OCSO)  
To: Fikovsky, Valentin (CDC/OD/OCSO); Watkins, Andrew (CDC/OD/OCSO); Candal, Francisco (Paco) (CDC/OD/OCSO)  
Sent: Thu May 15 12:14:11 2008  
Subject: RE: Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

We've never tried to pay by credit card. I wonder if we could use CCID's credit card to pay these fees?

Andrew and Paco, do you have any suggestions??

Suzanne

\*\*\*\*\*

Suzanne Seavello Shope  
770-488-8613

---

From: Fikovsky, Valentin (CDC/OD/OCSO)  
Sent: Thursday, May 15, 2008 12:06 PM  
To: Shope, Suzanne (CDC/OD/OCSO)  
Subject: RE: Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

There are four issued patent cases in which Needle did not send out reminders. This is one of them Cases are:

I-010-98 Wang et al

Method for the Determination of Hexavalent Chromium Using Ultrasonication  
and Strong Anion Exchange Solid Phase Extraction -

US 6,808,931, issued 10/26/2004

4th year fee was due 4/26/08

In grace period. We need to pay with surcharge by 10/28/08 otherwise the patent lapses

E-210-94 Zeng et al

Acoustical Method and System for Measuring Barrier Membrane Thickness Correspondent Area Distribution  
Using Maximum Transmission or Maximum Reflection Coefficients

6,089,094 issued July 18, 2000

8th year fee was due Jan 18, 2008

With surcharge we need to pay with surcharge by 7/18/08 else it lapses

E-021-91 Pellett et al

Recombinant Baculoviruses Expressing HSV-type Specific Antigens, gG-1 and gG-2

6,126,944 issued Oct. 3, 2000

8th year fee was due 4/3/2008

We need to pay with surcharge by 10/3/08 else it lapses

I-012-96 Critchfield et al

Method and Compositions for Inhibition of Viral Replication

6,274,611 issued 8/14/2001

Fee is due 2/24/2009, no surcharge

Given we have no CPA can we pay using the credit card? Or do we need task orders (I can't do these, my computer has no capability).

What do you think?

V

---

From: Shope, Suzanne (CDC/OD/OCSO)  
Sent: Wednesday, May 14, 2008 7:03 PM  
To: Fikovsky, Valentin (CDC/OD/OCSO)  
Subject: RE: Your Reference No. E-021-91/1; N&R Reference No. 14114.0368U4

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RE: Serial No. 08/472,507

U.S. Letters Patent No. 6,013,433

Title: BACULOVIRUS EXPRESSION VECTORS AND RECOMBINANT ANTIGENS FOR DETECTING  
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With regards,

Liz Williams  
Maintenance Fees and Annuities Dept.

Needle & Rosenberg, P.C.

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WASHINGTON, DC  
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E-021-91

GWENDOLYN D. SPRATT  
DIRECT DIAL: (678) 420-9450  
E-MAIL: SPRATTG@BALLARDSPAHR.COM

November 20, 2008

**Via U.S. Mail**

Francisco Candal, M.S., M.T.  
TECHNOLOGY MARKETING SPECIALIST  
2877 Brandywine Rd.  
Koger Center, Williams Building, Room 3833  
Atlanta GA 30341

RE: Transfer of File Material  
N&R Ballard Spahr Reference No: 14114.0368U2

Dear Paco:

We are transferring the enclosed correspondence to you with the understanding that our firm is no longer responsible for the handling of this case.

If you have any questions or concerns regarding this matter, please do not hesitate to contact us.

Very truly yours,



Gwendolyn D. Spratt

GDS/mkd  
Enclosure

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CDC-TTO



UNITED STATES PATENT AND TRADEMARK OFFICE

1414.036812

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CENTERS FOR DISEASE CONTROL

c/o Ballard Spahr Andrews &amp; Ingersoll, L

999 PEACHTREE STREET

SUITE 1000

ATLANTA GA 30309

DATE PRINTED

11/03/08

## NOTICE OF PATENT EXPIRATION

According to the records of the U.S. Patent and Trademark Office (USPTO), payment of the maintenance fee for the patent(s) listed below has not been received timely prior to the end of the six-month grace period in accordance with 37 CFR 1.362(e). THE PATENT(S) LISTED BELOW HAS THEREFORE EXPIRED AS OF THE END OF THE GRACE PERIOD. 35 U.S.C. 41(b). Notice of the expiration will be published in the USPTO Official Gazette.

Expired patents may be reinstated in accordance with 37 CFR 1.378 if upon petition the maintenance fee and the surcharge set forth in 37 CFR 1.20(i) are paid, AND the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional. 35 U.S.C. 41(c)(1).

If the Director accepts payment of the maintenance fee and surcharge upon petition under 37 CFR 1.378, the patent shall be considered as not having expired but would be subject to the intervening rights and conditions set forth in 35 U.S.C. 41(c)(2).

For instructions on filing a petition under 37 CFR 1.378 to reinstate an expired patent, customers should call the Office of Petitions Help Desk at 571-272-3282 or refer to the USPTO Web site at [www.uspto.gov/web/offices/pac/dapp/petitionspractice.html](http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html). The USPTO also permits reinstatement under 37 CFR 1.378(c) by electronic petition (e-petition) using EFS-Web; e-petitions may be automatically granted if all the eligibility requirements are met. For further information on filing an e-petition, please call the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 or refer to the EBC's e-petition guide at [www.uspto.gov/ebc/portal/efs/petition\\_quickstart.pdf](http://www.uspto.gov/ebc/portal/efs/petition_quickstart.pdf).

PATENT NUMBER	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPLICATION FILING DATE	EXPIRATION DATE	ATTORNEY DOCKET NUMBER
6126944	08480850	10/03/00	06/07/95	10/03/08	1414.657

GDSI

to

11/18/08

inactive - transferred to Client

NOTE: This notice was automatically generated based on the amount of time that elapsed since the date a patent was granted. It is possible that the patent term may have ended or been shortened due to a terminal disclaimer that was filed in the application. Also, for any patent that issued from an application filed on or after June 8, 1995 containing a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121, or 365(c), the patent term ends 20 years from the date on which the earliest such application was filed, unless the term was adjusted or extended under 35 U.S.C. 154 or 156.

LAW FICES  
THE NEEDLE & ROSENBERG INTELLECTUAL PROPERTY  
PRACTICE OF  
**BALLARD SPAHR ANDREWS & INGERSOLL, LLP**

999 PEACHTREE STREET, SUITE 1000  
ATLANTA, GA 30309-3915  
878-420-9300  
FAX: 678-420-9301  
WWW.BALLARDSPAHR.COM

ATLANTA, GA  
BALTIMORE, MD  
BETHESDA, MD  
DENVER, CO  
LAS VEGAS, NV  
LOS ANGELES, CA  
PHILADELPHIA, PA  
PHOENIX, AZ  
SALT LAKE CITY, UT  
VOORHEES, NJ  
WASHINGTON, DC  
WILMINGTON, DE

E-021-91

GWENDOLYN D. SPRATT  
DIRECT DIAL: (678) 420-9450  
E-MAIL: SPRATTG@BALLARDSPAHR.COM

November 20, 2008

**Via U.S. Mail**

Francisco Candal, M.S., M.T.  
TECHNOLOGY MARKETING SPECIALIST  
2877 Brandywine Rd.  
Koger Center, Williams Building, Room 3833  
Atlanta GA 30341

RE: Transfer of File Material  
N&R Ballard Spahr Reference No: 14114.0368U2

Dear Paco:

We are transferring the enclosed correspondence to you with the understanding that our firm is no longer responsible for the handling of this case.

If you have any questions or concerns regarding this matter, please do not hesitate to contact us.

Very truly yours,



Gwendolyn D. Spratt

GDS/mkd  
Enclosure

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NOV 28 2008

CDC-TTO



## UNITED STATES PATENT AND TRADEMARK OFFICE

1414.0368U2

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

RECEIVED

NOV 18 2008

PAYOR NUMBER  
52488

NEEDLE & ROSENBERG  
P75M

CENTERS FOR DISEASE CONTROL  
c/o Ballard Spahr Andrews & Ingersoll, L  
999 PEACHTREE STREET  
SUITE 1000  
ATLANTA GA 30309

DATE PRINTED

11/03/08

## NOTICE OF PATENT EXPIRATION

According to the records of the U.S. Patent and Trademark Office (USPTO), payment of the maintenance fee for the patent(s) listed below has not been received timely prior to the end of the six-month grace period in accordance with 37 CFR 1.362(e). THE PATENT(S) LISTED BELOW HAS THEREFORE EXPIRED AS OF THE END OF THE GRACE PERIOD. 35 U.S.C. 41(b). Notice of the expiration will be published in the USPTO Official Gazette.

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PATENT NUMBER	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPLICATION FILING DATE	EXPIRATION DATE	ATTORNEY DOCKET NUMBER
6126944	08480850	10/03/00	06/07/95	10/03/08	1414.657

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NOTE: This notice was automatically generated based on the amount of time that elapsed since the date a patent was granted. It is possible that the patent term may have ended or been shortened due to a terminal disclaimer that was filed in the application. Also, for any patent that issued from an application filed on or after June 8, 1995 containing a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121, or 365(c), the patent term ends 20 years from the date on which the earliest such application was filed, unless the term was adjusted or extended under 35 U.S.C. 154 or 156.



## Detailed Results

Tracking no.: 797017066994

Select time format: 12H

## Delivered

Delivered  
Signed for by: LUCAS

## Shipment Dates

Ship date: Apr 21, 2011  
Delivery date: Apr 22, 2011 10:59 AM

## Destination

PORTLAND, OR  
Signature Proof of Delivery

## Shipment Options

## Hold at FedEx Location

Hold at FedEx Location service is not available for this shipment.

## Shipment Facts

Service type	Standard Box	Delivered to	Receptionist/Front Desk
Weight	14.0 lbs/6.4 kg		

## Shipment Travel History

Select time zone: Local Scan Time

All shipment travel activity is displayed in local time for the location

Date/Time	Activity	Location	Details
Apr 22, 2011 10:59 AM	Delivered	PORTLAND, OR	
Apr 22, 2011 7:49 AM	On FedEx vehicle for delivery	PORTLAND, OR	
Apr 22, 2011 7:13 AM	At local FedEx facility	PORTLAND, OR	
Apr 22, 2011 5:14 AM	At dest sort facility	PORTLAND, OR	
Apr 22, 2011 3:42 AM	Departed FedEx location	FORT WORTH, TX	
Apr 22, 2011 12:27 AM	Arrived at FedEx location	FORT WORTH, TX	
Apr 21, 2011 9:44 PM	Left FedEx origin facility	NORCROSS, GA	
Apr 21, 2011 5:05 PM	Picked up	NORCROSS, GA	
Apr 21, 2011 2:23 PM	Shipment information sent to FedEx		



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of:** Pellet and Sanchez-Martinez

**Patent No.** 6,126,944

**Issued:** October 3, 2000

**Application No.** 08/480,850

**Filed:** June 7, 1995

**Confirmation No.** 9684

**For:** BACULOVIRUS EXPRESSION VECTORS  
AND RECOMBINANT ANTIGENS FOR  
DETECTING TYPE-SPECIFIC  
ANTIBODIES TO HERPES SIMPLEX  
VIRUS

**Examiner:** Louise N. Leary

**Art Unit:** 1623

**Attorney Reference No.** 6395-87124-02

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450 ALEXANDRIA, VA 22313-1450

**POWER OF ATTORNEY BY ASSIGNEE, REVOCATION OF PRIOR POWERS,  
AND CHANGE OF CORRESPONDENCE ADDRESS  
ACCOMPANIED BY A STATEMENT UNDER 37 C.F.R. 3.73(b)**

The Assignee hereby revokes any prior powers of attorney for this matter, and appoints practitioners associated with **Customer Number 24197** to transact all business in the U.S. Patent and Trademark Office connected with the referenced application and all continuations and divisionals thereof.

The Government of the United States of America as represented by the Secretary,  
Department of Health and Human Services (the Government), is the assignee of the entire right, title and interest of the patent application as evidenced in an assignment from the named inventors. A Statement Under 37 C.F.R. 3.73(b) is submitted herewith.

Please address all correspondence to **Customer Number 24197:**

KLARQUIST SPARKMAN, LLP  
One World Trade Center, Suite 1600  
121 SW Salmon Street  
Portland, OR 97204-2988  
Telephone: 503-595-5300  
Fax: 503-595-5301

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service via Express Mail No. EV 514210201 US in an envelope addressed to: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)


Date Mailed May 27, 2011

Address all telephone calls to Susan Alpert Siegel, Ph.D. at telephone number (503) 595-5300. Please update the Attorney Reference No. for this application to 6395-87124-01.

The undersigned is authorized to sign this Power of Attorney by Assignee on behalf of the Government.

Executed at ATLANTA, GA on the 27th day of MAY, 2011.  
(city and state)

The Government of the United States of America as represented by the Secretary,  
Department of Health and Human Services

By 

Name ANDREW WATKINS

Title Director, CDC Technology Transfer Office



THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of:** Pellet and Sanchez-Martinez

**Patent No.** 6,126,944

**Issued:** October 3, 2000

**Application No.** 08/480,850

**Filed:** June 7, 1995

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**For:** BACULOVIRUS EXPRESSION VECTORS  
AND RECOMBINANT ANTIGENS FOR  
DETECTING TYPE-SPECIFIC  
ANTIBODIES TO HERPES SIMPLEX  
VIRUS

**Examiner:** Louise N. Leary

**Art Unit:** 1623

**Attorney Reference No.** 6395-87124-02

MAIL STOP PETITION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450 ALEXANDRIA, VA 22313-1450

**CERTIFICATE OF MAILING**

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service via Express Mail No. EV 514210201 US in an envelope addressed to: MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)

Date Mailed May 27, 2011

**STATEMENT UNDER 37 CFR 3.73(b)**

The Government of the United States of America as represented by the Secretary, Department of Health and Human Services (the Government), states that it is the Assignee of the entire right, title and interest in the patent application identified by virtue of an Assignment from the inventor(s) of the patent application identified above.

- ☒ The assignment was recorded in the United States Patent and Trademark Office at Reel 7166, Frames 0602-0605, on October 11, 1994.


The undersigned is authorized to sign this document on behalf of the Government.

The undersigned is authorized to sign this Power of Attorney by Assignee on behalf of the Government.

Executed at ATLANTA, GA on the 27 day of MAY, 2011  
(city and state)



The Government of the United States of America as represented by the Secretary,  
Department of Health and Human Services

By 

Name ANDREW WATKINS

Title Director, CDC Technology Transfer Office



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

DATE: 11/02/94  
TO:

N06C

NEEDLE & ROSENBERG, P.C.  
WILLIAM H. NEEDLE, ESQ.  
SUITE 1200, THE CANDLER BLDG.  
127 PEACHTREE STREET, NE  
ATLANTA, GA 30303-1811

RECEIVED

1414.000

MAY 2 1994

ASSIGNMENT

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT BRANCH OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE U.S. PATENT AND TRADEMARK OFFICE ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT ASSIGNMENT PROCESSING SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT BRANCH, NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231

ASSIGNOR:

SANCHEZ-MARTINEZ, DEMETRIO

DOC DATE: 09/26/94

RECORDATION DATE: 10/11/94 NUMBER OF PAGES 004 REEL/FRAME 7166/0602

DIGEST : ASSIGNMENT OF ASSIGNORS INTEREST

ASSIGNEE:

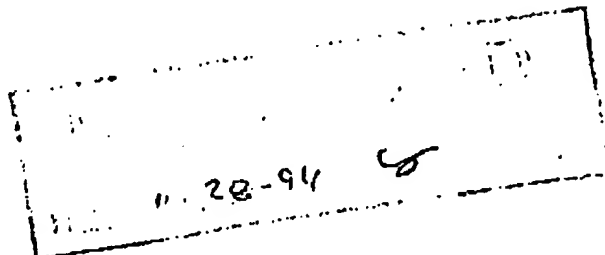
UNITED STATES OF AMERICA, THE, AS REPRESENTED BY THE  
SECRETARY DEPARTMENT OF HEALTH AND HUMAN SERVICES  
C/O NATIONAL INSTITUTES OF HEALTH  
OFFICE OF TECHNOLOGY TRANSFER  
BOX OTT  
BETHESDA, MD 20892

SERIAL NUMBER 7-691728  
PATENT NUMBER

FILING DATE 04/26/91  
ISSUE DATE 00/00/00

EXAMINER/PARALEGAL  
ASSIGNMENT BRANCH

ASSIGNMENT/CERTIFICATION SERVICES DIVISION



COPY

40-381-

FORM PTO-1595  
(Revised 6-93)U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark OfficeRECORDATION FORM COVER SHEET  
PATENTS ONLY

TO THE HONORABLE COMMISSIONER OF PATENTS AND TRADEMARKS:

Please record the attached original documents or copy thereof.

ATTORNEY DOCKET NO.: 1414.006

1) Name of conveying party(ies):

DEMETRIO SANCHEZ-MARTINEZ

Additional names of conveying party(ies) attached?

☐ YES☒ NO

2) Name and address of receiving party(ies):

The Government of the United States of America, as  
represented by the Secretary  
Department of Health and Human Services  
c/o National Institutes of Health  
Office Of Technology Transfer  
Box OTT  
Bethesda, MD 20892

Additional name(s) and address(es) attached?

☐ YES ☒ NO

3) Nature of conveyance:

<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> Merger	<input type="checkbox"/> Other
<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Name	

Execution Date: September 26, 1994

4) Application number(s) or patent number(s):

If this document is being filed together with a new application,  
the execution date of the application is: (filed April 26, 1991)

A) Patent Application No.(s):

07/691,728

B. Patent No.(s):

Additional numbers attached? ☐ YES ☒ NO5) Name and address of party to whom correspondence  
concerning document should be mailed:William H. Needle, Esquire  
NEEDLE & ROSENBERG, P.C.  
Suite 1200, The Candler Building  
127 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1811  
(404) 688-0770

6) Total number of applications and patents involved: 1

7) Total fee (37 CFR 3.41):

☒ Enclosed☐ Authorized to be charged to Deposit Account.The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any  
overpayment, to Deposit Account No. 14-0629.

8) Deposit account number: 140 EK 10/24/94 07691728

(Attach duplicate copy of this form if paying by deposit account)

9. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true  
copy of the original document.

Gwendolyn D. Spratt

Gwendolyn D. Spratt  
Reg. No. 36,01610-6-94  
Date

91861856

Total Number of Pages Including Cover Sheet, Attachments, and Documents: 3

COPY

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Commissioner of Patents  
and Trademarks  
BOX ASSIGNMENTS  
Washington, D.C. 20231

on this 6<sup>th</sup> day of October, 1994

Jo Anne W. Tyson Oct. 6, 1994  
Jo Anne W. Tyson Date

COPY

REL 7166 FRAB603

ASSIGNMENT

WHEREAS, I, DEMETRIO SANCHEZ-MARTINEZ, have invented "NOVEL BACULOVIRUS EXPRESSION VECTORS AND RECOMBINANT ANTIGENS FOR DETECTING TYPE-SPECIFIC ANTIBODIES TO HERPES SIMPLEX VIRUS", for which the applicants have made application for Letters Patent of the United States, Serial No. 07/691,728, filed April 26, 1991; and

WHEREAS, I, am an applicant named in the above-identified application for Letters Patent; and

WHEREAS, the conditions under which said invention was made are such as to entitle THE UNITED STATES OF AMERICA [hereinafter THE GOVERNMENT] under Paragraph 1(a) of Executive Order 10096 to the entire right, title, and interest herein, both domestic and foreign; and

WHEREAS, THE GOVERNMENT is desirous of acquiring all domestic and foreign right, title, and interest in the above-mentioned invention described in the application for Letters Patent; and

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, I hereby assign and transfer to THE GOVERNMENT, represented by the Secretary, Department of Health and Human Services, the full and exclusive rights in and to said invention in the United States and within each and every foreign country in which THE GOVERNMENT elects to file and the entire right, title, and interest in and to such applications, and any continuations, continuations-in-part, divisions, reissues or extensions thereof, and including priority

NE 7166 FRAM 604

rights as may be filed in the United States and foreign countries, and such Letters Patent as may be granted to be held by THE GOVERNMENT to the end of the term for which the same would have been held by the inventors had this assignment not been made.

I further agree to make, execute, and deliver to the Secretary, Department of Health and Human Services, upon request, any and all papers, documents, affidavits, or other instruments that may be necessary in the prosecution of any application or applications for improvements or reissues of Letters Patent, and to assist THE GOVERNMENT in every way as may be requested in protecting said invention, provided that any expense of extending such assistance shall be paid by THE GOVERNMENT.

IN WITNESS WHEREOF my hand(s) and seal(s) on the dates shown below:

9/26/94  
Date

Demetrio Sanchez Martinez  
DEMETRIO SANCHEZ-MARTINEZ

County of Middlesex

OCT 11 94

State of Mass. ss:

RECORDED  
PATENT AND TRADEMARK  
OFFICE

Sept Subscribed and sworn to before me this 26 day of Sept, 1994.

[Seal]

Clara C. Bland  
Notary Public  
Commission expires 5/2/97

REF 7166 FRM 605

NU-5X1-1

FORM PT  
1-31-93



RECORDATION FORM COVER SHEET  
PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

TO THE HONORABLE COMMISSIONER OF PATENTS AND TRADEMARKS:

Please record the attached original documents or copy thereof.

ATTORNEY DOCKET NO.: 1414.006

<b>1. Name of conveying party(ies):</b>  PHILIP E. PELLETT  Additional names of conveying party(ies) attached?  <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>2. Name and address of receiving party(ies):</b>  Name: The Government of the United States of America as represented by The Secretary Department of Health and Human Services c/o National Institutes of Health Office of Technology Transfer Box OTT Bethesda, MD 20892  Additional name(s) and address(es) attached?  <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
---	---

<b>3. Nature of conveyance:</b>			
<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> Merger	<input type="checkbox"/> Other	
<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Name		

Execution Date: February 9, 1993

<b>4. Application number(s) or patent number(s):</b> If this document is being filed together with a new application, the execution date of the application is:	
A. Patent Application No.(s): 07/691,728	B. Patent No.(s):
Additional numbers attached? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

<b>5. Name and address of party to whom correspondence concerning document should be mailed:</b>  William H. Needle, Esq. NEEDLE & ROSENBERG, P.C. 133 Carnegie Way, N.W. Suite 400 Atlanta, Georgia 30303 (404) 688-0770	<b>6. Number of applications and patents involved: 1</b>
--	--

<b>7. Total fee (37 CFR 3.41):</b> <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to Deposit Account.  ***** The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 14-0629. *****	\$40.00
---	---------

<b>8. Deposit Account Number: 14-06298.</b>
---

<b>9. To the best of my knowledge and belief, the foregoing information is true and correct and any attached hard copy is a true copy of the original document.</b>		
Gwendolyn D. Spratt (Name of Person Signing)	<b>01664592</b> Signature	<b>2-19-93</b> Date
Total Number of Pages Comprising Cover Sheet: <b>3</b>		

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks  
BOX ASSIGNMENT

REEL

FRAME

ASSIGNMENT

WHEREAS, I, Philip E. Pellett, an employee of the Department of Health and Human Services, have invented "NOVEL BACULOVIRUS EXPRESSION VECTORS AND RECOMBINANT ANTIGENS FOR DETECTING TYPE SPECIFIC ANTIBODIES TO HERPES SIMPLEX VIRUS", for which I have made application for Letters Patent of the United States, filed April 26, 1991; Serial No. 07/691,728 and

WHEREAS, I am an applicant named in the above-identified application for Letters Patent; and

WHEREAS, the conditions under which said invention was made are such as to entitle THE UNITED STATES OF AMERICA [hereinafter THE GOVERNMENT] under Paragraph 1(a) of Executive Order 10096 to my entire right, title, and interest herein, both domestic and foreign; and

WHEREAS, THE GOVERNMENT is desirous of acquiring all of my domestic and foreign right, title, and interest in the above-mentioned invention described in the application for Letters Patent; and

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, I hereby assign and transfer to THE GOVERNMENT, represented by the Secretary, Department of Health and Human Services, my full and exclusive rights in and to said invention in the United States and within each and every foreign country in which THE GOVERNMENT elects to file and my entire right, title, and interest in and to such applications, and any continuations, continuations-in-part, divisions, reissues or extensions thereof, and including priority

REEL  
6435  
FRAME  
0251



FEB 22 93

rights as may be filed in the United States and foreign countries, and such Letters Patent as may be granted to be held by THE GOVERNMENT to the end of the term for which the same would have been held by me had this assignment not been made.

I further agree to make, execute, and deliver to the Secretary, Department of Health and Human Services, upon request, any and all papers, documents, affidavits, or other instruments that may be necessary in the prosecution of any application or applications for improvements or reissues of Letters Patent, and to assist THE GOVERNMENT in every way as may be requested in protecting said invention, provided that any expense of extending such assistance shall be paid by THE GOVERNMENT.

IN WITNESS WHEREOF my hand and seal on the dates shown below:

February 9, 1993  
Date

Philip E. Pellett  
PHILIP E. PELLETT

County of DEKALB  
State of Georgia SS:

Subscribed and sworn to before me this 9th  
day of February, 1993.

[Seal]  
jat/c:\wpf\patwork\assign.93\1414.006

Francis Lee Gordon  
Notary Public

Notary Public, DeKalb County, Georgia.  
My Commission Expires April 8, 1996

REEL  
6435  
FRAME  
0252